

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:INTL:B06
PLR-143095-14
Date:
February 11, 2015

TY:

Legend

Taxpayer =
Accounting Firm
Law Firm =
Corporation =
Interested Party =
Year 1 =
Date 1 =
Date 2 =
Date 3 =

Dear :

This responds to a letter dated October 10, 2014, submitted by Accounting Firm requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A ("Election To Be Treated as an Interest Charge DISC") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Accounting Firm, and accompanied by penalties of perjury statements executed by appropriate parties. This office has not verified any of the material submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

In Year 1, Accounting Firm advised Corporation of the benefits of establishing an interest charge domestic international sales corporation ("IC-DISC"). Corporation engaged Law Firm to incorporate a new entity, Taxpayer, and relied on Accounting Firm to arrange for Taxpayer to qualify as an IC-DISC. Taxpayer was formed on Date 1 as a domestic corporation with a calendar taxable year to serve as an IC-DISC. Taxpayer operates under a commission arrangement with Interested Party. From the time of its formation, Taxpayer has been owned 100% by Corporation and indirectly 100% owned by Interested Party.

On Date 2, Accounting Firm sent Form 4876-A to the Chief Financial Officer of Interested Party with instructions to forward to Taxpayer's president for signature and mailing. At that time, there was a transition in the staff person responsible for the administration of the IC-DISC and Taxpayer inadvertently failed to file Form 4876-A.

On or before Date 3, Accounting Firm discovered that the original Form 4876-A had never been received by Accounting Firm or filed with the Service. After notifying Corporation of this fact, Accounting Firm submitted this request for relief under Treas. Reg. § 301.9100-3 for an extension of time to file Form 4876-A effective Date 1.

LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC¹ shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules

¹ As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Marissa K. Rensen
Assistant to Branch Chief, Branch 6
Office of Associate Chief Counsel (International)